

SEALED PROCEEDINGS

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 10-CR-00288(ILG)

-against-

: United States Courthouse
Brooklyn, New York

JOHN DOE,

: Wednesday, January 30, 2019
11:00 a.m.

Defendant.

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TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE I. LEO GLASSER
UNITED STATES SENIOR DISTRICT JUDGE

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1 (In open court.)

2 (Judge I. LEO GLASSER enters the courtroom.)

3 THE COURTROOM DEPUTY: All rise.

4 Please be seated.

5 (Pause in the proceedings.)

6 THE COURTROOM DEPUTY: We are waiting for the
7 Marshals.

8 THE COURT: While we are waiting for Mr. Velandia, a
9 motion has been made to seal the courtroom for these
10 proceedings.

11 Does the defendant want to be heard with respect to
12 that?

13 MS. DeBLASIO: Thank you, Your Honor, and good
14 morning. Alessandra DeBlasio.

15 Nothing in particular beyond my request. We just
16 want it to be just like this, where nobody else comes in. So
17 with us today is Mr. Caicedo's brother, who wrote a letter to
18 Your Honor as part of our sentencing package. And another
19 attorney of his.

20 THE COURT: His what?

21 MS. DeBLASIO: An attorney of his. She only speaks
22 Spanish, so she doesn't understand.

23 THE COURT: You say she is an attorney?

24 MS. DeBLASIO: Yes, she is, yes. And he is a
25 brother.

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1 THE COURT: And who is she an attorney for?

2 MS. DeBLASIO: For Mr. Caicedo.

3 THE COURT: We will wait for Mr. Velandia to come
4 in, but seeing as how there is nobody in the courtroom, in any
5 event, the submission by the defense to have the courtroom
6 sealed -- I think you are familiar with it?

7 MS. DAYANANDA: Yes, Your Honor.

8 The Government takes no position. As Your Honor is
9 aware, to actually have a Government request of sealing the
10 courtroom, we go through the DOJ. We did not find a basis to
11 make that request for this particular defendant, given the
12 course of the history of this case.

13 So we took no position as far as sealing the
14 courtroom. We will ask that the actual proceeding be sealed,
15 as we usually do, in cooperating cases.

16 THE COURT: Well, the defendant feels quite strongly
17 that there is a serious risk to his safety and the safety of
18 his family.

19 MS. DAYANANDA: I understand that, Your Honor. Some
20 of those risks, I think, are mitigated by the fact that, one,
21 this case has not been under seal the entire duration, which
22 is a consideration. It is listed by his real name. It's
23 never been a John Doe. As well as the risk articulated by the
24 defense [REDACTED]

25 [REDACTED] . Literally, the case

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1 is summing up.

2 Mr. Caicedo was never called as a witness; 14
3 cooperating witnesses took the stand in that case. So we just
4 did not have a basis to make that request to main justice.

5 THE COURT: As I understand it, this request only
6 pertains to the sentence itself; that is, he is concerned
7 about public knowledge regarding the date upon which Mr. -- is
8 it Velandia or Caicedo?

9 MS. DAYANANDA: Caicedo.

10 THE COURT: Well, that is his concern.

11 MS. DAYANANDA: I understand that, too, Your Honor.
12 I still don't share that same concern. The defendant has had
13 an ongoing case in the Middle District of Florida where
14 everything has been on the record as well.

15 THE COURT: Deal with the fact that there is nobody
16 in the courtroom anyway, except members of the defendant's
17 family, it is rather academic.

18 MS. DAYANANDA: Sure.

19 THE COURT: I will not deal with that any further.

20 MS. DeBLASIO: Thank you, Your Honor.

21 THE COURTRoom DEPUTY: Criminal cause for
22 sentencing, the United States versus Luis Agustin Caicedo
23 Velandia.

24 Counsel, please state your appearances for the
25 record and come forward.

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1 MS. DAYANANDA: Good morning, Your Honor.

2 Soumya Dayananda for the Government. Along with me
3 at counsel table is Jess Kennedy from HSI and Michelle Murphy
4 from U.S. Probation.

5 THE COURT: Good morning.

6 S.A. KENNEDY: Good morning, sir.

7 USPO MURPHY: Good morning, Your Honor.

8 MR. GUERRA: Good morning, Your Honor.

9 Luis Guerra and Alessandra DeBlasio on behalf of
10 Mr. Caicedo, who is present in the courtroom, being assisted
11 by the interpreter.

12 THE COURT: Are you ready to proceed, Mr. Guerra?

13 MR. GUERRA: Yes, Your Honor, we are.

14 THE COURT: You have reviewed the Pre-Sentence
15 Report with your client?

16 MR. GUERRA: We have, Your Honor.

17 THE COURT: You take no exception to it that I am
18 aware of?

19 MR. GUERRA: None, Your Honor.

20 THE COURT: So I will adopt the Pre-Sentence Report
21 in its entirety.

22 I think the guideline is a 45, a 20-year maximum
23 sentence.

24 MS. DAYANANDA: That's correct, Your Honor.

25 THE COURT: So the guidelines are academic.

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1 MS. DAYANANDA: Correct.

2 THE COURT: If you want to be heard, I will be happy
3 to hear you.

4 MR. GUERRA: Thank you, Your Honor.

5 As I indicated, Your Honor, Ms. DeBlasio is with me
6 and we're co-counsel on behalf of Mr. Caicedo. After I make a
7 brief statement, perhaps she may want to address the Court as
8 well, and I know that at the appropriate time Mr. Caicedo does
9 want to address the Court.

10 Your Honor, as the Court is aware, 3553 requires
11 that the Court take into consideration the nature and
12 circumstances of the offense, and the history and
13 characteristics of the offender.

14 I think it's important that we note at the outset
15 that this offense is a money laundering offense. It is not
16 the drug trafficking offense. The trafficking offense, as the
17 Court is aware, was handled in the Middle District of Florida,
18 by another judge, Judge Whittemore, and after Mr. Caicedo
19 cooperated, he received his sentence in that matter and we
20 are --

21 THE COURT: Mr. Guerra, I just do not really want to
22 interrupt you unnecessarily, but a prerequisite for money
23 laundering is that the source of the funds is criminal
24 activity. That is a prerequisite for money laundering. So
25 there is a very significant consideration, the fact that the

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1 money is derived from drug trafficking.

2 MR. GUERRA: I understand that, Your Honor. And my
3 prelude, really, was in response to the Government's 5K1
4 letter because we've, the prosecutor and I, have taken
5 different positions on this case from the get-go. I do
6 believe that the cooperation that Mr. Caicedo gave in the
7 Tampa case should be considered by Your Honor because, as I
8 see it, it is one case. It's two charges; one was separated
9 and taken to Tampa, and one was separated and kept here.

10 [REDACTED]

11 [REDACTED] [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED] [REDACTED]

15 [REDACTED].

16 We are in the position, because of this separation
17 of counts, if you will, that the Government is saying that you
18 shouldn't consider cooperation that he gave in Florida. We
19 believe you should because we do believe it's one case.

20 But because of this dispute that I've had with the
21 prosecution from the beginning of this case, I did want to
22 make that point; that technically, we are here on the money
23 laundering case.

24 Now, yes, they are one and the same. In my opinion,
25 it's the same conspiracy. Same conspiracy, period. Same

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1 co-conspirators. It's the identical case.

2 But the Department of Justice decided to separate it
3 and, obviously, they have the right to do that, but I believe
4 that when you're going to judge a man, he should be -- I
5 should be able to present to you everything he's done in favor
6 of the Government, because it is the same U.S. Government, and
7 the Court should take it all into consideration, not just the
8 cooperation that he did in New York, which was extensive in
9 and of itself.

10 So my reasoning for indicating that was for that
11 reason. But that being said, Your Honor, let's talk a little
12 bit about the Tampa case, because I met Mr. Caicedo about nine
13 years ago when he was first arrested and he began his
14 cooperation with the Government. It's the U.S. Government.

15 Mr. Kennedy, who is from Department of Immigration
16 and Customs Enforcement was in Tampa. We were working
17 primarily with DEA at the time and Mr. Caicedo made a number
18 of cases. There were maritime seizure cases. There were
19 indictments of co-conspirators and of narcotics traffickers.

20 He was able to forfeit \$113 million to the
21 Government, to the Colombian Government and the
22 U.S. Government. He cooperated extensively and he was in a
23 day-to-day cooperation, meetings, with the prosecution in
24 Tampa.

25 To protect his identity he was kept under a

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1 different name and he was kept in isolation. For the first
2 14 months of his incarceration he was in solitary confinement.

3 After everything was said and done, and it was
4 presented to the judge in the Middle District of Florida on a
5 re-sentencing, the judge decided that his cooperation merited
6 a time-served sentence, and he received a time-served sentence
7 in Florida.

8 He was then brought to New York and we began a
9 second phase of cooperation, which is detailed in the
10 Government's 5K1 letter. That second phase of cooperation,
11 Your Honor, began almost the day we got here. We signed a
12 cooperation agreement with the prosecution and Mr. Caicedo has
13 never wavered in his cooperation.

14 In fact, I think pages 6, 7 and 8 of the
15 Government's 5K1 motion outline -- I think there are 11
16 indictments, 15 individuals, who have been charged from
17 information specifically given by Mr. Caicedo.

18 [REDACTED]

19 [REDACTED]

20 [REDACTED] [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED] [REDACTED]

25 [REDACTED].

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED] [REDACTED]
16 [REDACTED]
17 [REDACTED] [REDACTED]
18 [REDACTED] [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED] [REDACTED]
23 [REDACTED]
24 [REDACTED] [REDACTED]
25 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED] [REDACTED]
4 [REDACTED] [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED] [REDACTED]
14 [REDACTED] [REDACTED]
15 [REDACTED] [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

24 Nevertheless, Mr. Caicedo has never, ever wavered in
25 his cooperation, Your Honor. He has always been available for

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1 the Government. The prosecution in this letter says that his
2 cooperation is complete and that his cooperation is truthful.

3 And so in terms of what he has done since his
4 arrest, almost nine years ago, is he's cooperated consistently
5 with the U.S. Government. I don't believe we should be
6 dividing the cooperation in Florida with that here in
7 Brooklyn. But even if you did that, Judge, even if you just
8 considered what the prosecution has put in this 5K1 memo, it's
9 extensive and it's against various individuals, two of whom
10 are extremely dangerous persons.

11 So I don't know what to say about his cooperation
12 other than it's remarkable.

13 I do want to address the issue of disparate
14 sentences, because there's another issue, another dispute that
15 we had with the Government from the get-go, is what role
16 Mr. Caicedo should have. They believe he's the ultimate
17 maximum leader and everyone else is below him.

18 We believe that Mr. Lozano, Julio Lozano, and
19 Mr. Caicedo, who the PSR indicates are co-leaders. Mr. Lozano
20 and Mr. Caicedo are on the same level, and I want to explain
21 to the Court why.

22 The original founding father, if you will, of this
23 drug trafficking organization was a guy named Gustavo Lozano.
24 Gustavo Lozano, the prosecution notes, and admits to, is the
25 person who initiated the trafficking organization. He then

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1 brought in his nephew, Julio, at the age of 20. You know
2 this, Judge, because you sentenced Mr. Lozano, I think two or
3 three years ago. Mr. Lozano began to work with his uncle
4 Gustavo for years and then they brought in Mr. Caicedo.

5 THE COURT: You speak of Lozano is that Pirateque?

6 MR. GUERRA: Yes, sir.

7 MS. DeBLASIO: Yes.

8 MR. GUERRA: Mr. Pirateque, Lozano Pirateque. When
9 Mr. Caicedo was brought in, he was brought in by Gustavo, and
10 then Mr. Caicedo and Mr. Lozano begin to run the organization.
11 And I do agree that they were co-leaders, but Mr. Lozano,
12 Julio Lozano, controlled the routes through Mexico and
13 Guatemala. Mr. Caicedo controlled the operations of the
14 organization in Colombia.

15 Mr. Lozano and Mr. Caicedo each reap 50 percent,
16 50/50 percent of the profits of this organization up until the
17 day the Government took it down. Up until that day,
18 Mr. Lozano and Mr. Caicedo were 50/50 partners. At that point
19 in time, when the organization is taken down, the Government
20 makes and announces and puts Mr. Caicedo as the maximum
21 leader.

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13 If you have any questions for me or my co-counsel,
14 Your Honor. But Mr. Caicedo would like to address the Court
15 at some point.

16 THE COURT: I will get to Mr. Caicedo eventually.

17 MS. DeBLASIO: Thank you, Your Honor.

18 I have nothing to add, so unless Your Honor has any
19 questions, but the memo was extensive and we've said our
20 peace.

21 | THE COURT: Thank you, very much.

22 Ms. Dayananda?

23 MS. DAYANANDA: Your Honor, I just want to address a
24 few things.

25 As counsel notes, this is obviously the Government's

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1 motion for a 5K. There is no dispute the defendant has
2 provided substantial assistance. That's not a point of
3 contention here. What I do think should be considered are a
4 few things.

5 First, considering the cooperation versus his actual
6 criminal conduct. And I think that, with all due respect,
7 counsel is conflating the two concepts. Understandably, the
8 criminal conduct of running this drug network drives up the
9 money laundering guidelines. That's the criminal conduct.

10 I understand how it's related, as Your Honor pointed
11 out at the beginning of this. That is separate from the
12 cooperation he provided and that was considered by the Middle
13 District of Florida.

14 I think also, as part of this backdrop of the prior
15 case, the Middle District of Florida functions very
16 differently from here in the Eastern District. They operate
17 as what they call a rocket docket. So at the time he was --
18 he pled guilty to a cooperation agreement in Florida. Two
19 months later he was originally sentenced. And that was the
20 judge considering just those two months of cooperation that
21 was provided.

22 I know the sentencing transcript was provided to
23 Your Honor, and the judge there noted that it was rare
24 cooperation at that time. Again, it's district by district.
25 It's very different so. At that point in time his guidelines

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1 were, I think, close to 30 years, because of the obvious drug
2 amounts that he's responsible for, and then it was cut to ten
3 years.

4 So for two months of cooperation, he was sentenced
5 to ten years, and that was in 2012, I believe. 2011. And
6 then a few years later, this is after he comes to the Eastern
7 District of New York, a Rule 35 was submitted in the Middle
8 District of Florida, and he was sentenced to time served.

9 So it's a very different process of how it works
10 there in Florida and it's -- the cooperation is separate from
11 what he did here in New York. It's almost an academic point
12 because, again, he is getting a 5K here. But for Your Honor
13 to consider the cooperation twice, simply does not make sense
14 or comport with logic here, is the point that the Government's
15 making here in the Eastern District.

16 THE COURT: How else, what more cooperation could
17 this defendant have been giving with respect to the money
18 laundering? Wouldn't it essentially have been what it is that
19 he informed the Government about in connection with the
20 indictment in Florida?

21 MS. DAYANANDA: There's nothing more, Your Honor.
22 Obviously, you are considering him in his entirety. But what
23 the point is, is that it's -- the agreement was at the
24 beginning, which is why it was not Rule 20'd, was that the
25 cooperation would be considered differently. That's the point

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1 the Government is trying to make here.

2 THE COURT: I understand the point that you are
3 trying to make, Ms. Dayananda, but it is not persuasive.

4 MS. DAYANANDA: I understand that, Your Honor. And
5 again, I understand that it's academic because he's getting
6 the 5K.

7 It would be a different position if I was saying he
8 didn't earn his 5K here in the Eastern District to just
9 disregard what he did for the Middle District of Florida. But
10 I do think it's important to be precise as to what's being
11 presented in front of Your Honor. And I think a portion of
12 the defense submission has already been considered by the
13 Middle District of Florida is one part of my argument of the
14 letter.

15 Secondly, in terms of the leadership of this
16 particular defendant, counsel is arguing that Julio Lozano
17 Pirateque is first in leadership and there is nothing to
18 indicate in terms of what a leader is in terms of the
19 decision-making authority of this organization, that that was
20 held by Julio Lozano Pirateque.

21 Was he a 50/50 profit earner? Yes.

22 Was he a partner? But by all accounts, including by
23 the Government's calling it the Don Lucho organization, it's
24 this defendant who was the leader of the organization itself.

25 So the factual argument that counsel is making that

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1 [REDACTED]
2 [REDACTED], it's not based in the actual facts of how these
3 top-level people were operating the organization. And I think
4 that's very important to understand. Because you can't really
5 have it both ways; you can't say the Chapo Guzman indictment
6 had a portion called the Don Lucho organization which was
7 based upon the ledgers. That was called the Don Lucho portion
8 of the indictment because he's the leader. It wasn't called
9 the Julio Lozano organization.

10 In Colombia, by the folks who were indicted and
11 associated with this organization, everybody would say Don
12 Lucho is the head of the organization.

13 Was Julio Lozano one of the partners? Yes, but the
14 decision making was held by this defendant.

15 [REDACTED]
16 [REDACTED] [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED] [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 So those are the three points I wanted to make to
23 Your Honor in terms of, again, his leadership as well as the
24 past cooperation.

25 THE COURT: Why was Mr. Caicedo not indicted in

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1 Florida, for money laundering in Florida? And for the
2 trafficking offense in Florida?

3 MS. DAYANANDA: It's a complicated answer,
4 Your Honor. I think that there was --

5 THE COURT: I have patience.

6 MS. DAYANANDA: So one kind of explanation is based
7 upon the evidence that we had at the time and the agreements
8 of who -- without getting into kind of a bigger thing, it's
9 more so who we had as cooperating witnesses versus who Florida
10 had as cooperating witnesses who could indict this particular
11 defendant.

12 So in terms of kind of a compromise between the two
13 districts, Middle District of Florida indicted him on the
14 drugs and we indicted him on the money. It happens somewhat
15 frequently in this world where there's a few districts who
16 have particular high-level targets. So there's a process we
17 go through to decide who will indict on what charges.

18 THE COURT: Did I sentence Mr. Otalora?

19 MS. DeBLASIO: Yes, Your Honor.

20 MS. DAYANANDA: Otalora?

21 THE COURT: Yes.

22 MS. DAYANANDA: Yes.

23 THE COURT: What did I sentence him to? I do not
24 remember what his role was. I sentenced him to a term which
25 was in excess, I think, just about every other defendant in

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1 this case.

2 MS. DAYANANDA: Let me make sure you were the one
3 who sentenced him.

4 THE COURT: [REDACTED]

5 [REDACTED] [REDACTED]
6 [REDACTED] [REDACTED]
7 [REDACTED] [REDACTED] [REDACTED] A lot of these names are
8 familiar. I do not know whether they are familiar because
9 they are persons I sentenced, or because I was dealing with
10 this indictment over a number of years.

11 MS. DAYANANDA: Your Honor, I'm not sure if that
12 particular indictment was in front of you, but I believe his
13 role is significantly less than this particular defendant.

14 THE COURT: Otalora?

15 MS. DAYANANDA: Yes.

16 THE COURT: He was sentenced to significantly more
17 than virtually everybody else.

18 Do you have the probation officer's addendum?

19 MS. DeBLASIO: I do. I have two copies.

20 And, Your Honor, I might be able to speak to that.
21 There was one typo on the addendum which is a little
22 confusing. All of those names you mentioned, you did not
23 sentence all of those others. They were in a case which was
24 10-225.

25 THE COURT: Okay.

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1 MS. DeBLASIO: This case, you are correct. You've
2 sentenced -- this is the third. So the leaders. You have all
3 the leaders, Your Honor.

4 THE COURT: Who was the third? I have Lozano
5 Pirateque.

6 MS. DeBLASIO: You had Lozano Pirateque and Otalora.

7 MS. DAYANANDA: You did have Otalora, yes.

8 MS. DeBLASIO: But the fourth one, Barrera Barrera
9 they sent to Southern District of New York. So he's done. So
10 Your Honor gets three of them.

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16 THE COURT: Mr. Caicedo, is there something you
17 would like to say to me in mitigation of sentence?

18 MS. DeBLASIO: I believe he does want to read a word
19 of apology, Your Honor.

20 THE DEFENDANT: First of all, I would like to
21 apologize to Your Honor, to the prosecutor, and the American
22 people.

23 I, Luis Caicedo, assume my responsibility for the
24 crimes and the errors that I made. In this time that I've
25 been in jail, I have had the time to reflect on the

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1 irreparable harm that I've caused society. Because of that,
2 for the rest of -- for every day of the rest of my life, I
3 will have that on my conscience.

4 I am conscious of the punishment that I deserve and
5 I am assuming this with maturity and responsibility. I would
6 ask God to forgive me, my family and members of humanity who
7 were the victims of my poor decisions and actions. I would
8 ask you to give me a chance to vindicate myself with
9 society, my family. I would ask you for a chance to be
10 reunited with my family once more.

11 Thank you.

12 THE COURT: I read the transcript of your sentence
13 in Florida by Judge Whittemore.

14 Were you the attorney?

15 MR. GUERRA: I was not, Your Honor. I was there,
16 but I was not the attorney at the time.

17 THE COURT: So you heard everything that Judge
18 Whittemore had to say to Mr. Caicedo?

19 MR. GUERRA: Yes, Your Honor.

20 THE COURT: Do you think there is very much that I
21 can add to that?

22 MR. GUERRA: I don't think so, Your Honor.

23 THE COURT: Did you read the transcript?

24 MS. DAYANANDA: I did, Your Honor.

25 THE COURT: Of that sentencing?

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1 MS. DAYANANDA: I did.

2 I did not read the Rule 35 transcript. I did not
3 receive a copy.

4 THE COURT: I did not read the Rule 35 motion
5 either. I just read Judge Whittemore's rather extensive
6 observations at the time he sentenced Mr. Caicedo.

7 Mr. Caicedo, I was listening very carefully to what
8 you have just said to me. You are now 52 years old, yes?

9 THE DEFENDANT: Yes.

10 THE COURT: And the time period during which all of
11 this activity was engaged in, you were in your 30s, 40s. You
12 were not a child. You were an adult. And you tell me this
13 morning that it was not until you were confined and had time
14 to think of how bad what you were doing was.

15 Would you expect me to really believe that,
16 Mr. Caicedo? Would you?

17 Would you lead me to believe, expect me to believe
18 that being the leader of a huge business, a billion dollar
19 business, you had no idea what it was that you were involved
20 with?

21 You knew that you were dealing with huge quantities
22 of cocaine; 880,000 kilograms of cocaine. You had ships and
23 submarines and airplanes and living very, very luxuriously,
24 I'm sure, in beautiful homes with big cars, and you are
25 telling me this morning it was not until you were locked up

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1 that you began to understand how serious what you were doing
2 was.

3 MS. DeBLASIO: Your Honor, if I might? I think of
4 course you're absolutely right. I do want to say this was a
5 slightly unusual organization in that they didn't live the
6 luxury and have all of the flash of some of these other
7 horrible traffickers. But there's no question he knew what he
8 was doing. And I don't think it just took prison.

9 THE COURT: Pardon?

10 MS. DeBLASIO: He said that, but Your Honor's
11 correct.

12 THE DEFENDANT: Right.

13 THE COURT: Now the question is why?

14 MS. DeBLASIO: I question that...

15 THE COURT: I received a letter [REDACTED]
16 [REDACTED], in which somewhere in the letter he said that you
17 were brought up in a very nice family. Your father owned a
18 garage, fixed automobiles, and they taught you to live
19 respectably and honestly.

20 And looking at you, one would think you were an
21 altar boy. Looking at you, I am trying to picture you as the
22 leader of a large trafficking organization that had hundreds
23 if not thousands of people working for you, transporting drugs
24 through Colombia, through Mexico, in ships, in cars. Having
25 very violent men like Morentiz (phonetic) working for you,

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1 spending time trying to locate who was robbing money from your
2 warehouses and kidnapping and murdering them when they were
3 found.

4 And you are telling me this morning you did not know
5 until you were in prison how terrible what you were doing was
6 all about.

7 THE DEFENDANT: I know. I do know.

8 THE COURT: Now, everything that Mr. Guerra said on
9 your behalf, very eloquent. He is a very good lawyer, very
10 articulate. He said all the things a defense lawyer says at a
11 time like this; he spends 15, 20 minutes telling the Court
12 about how wonderful you were, you were cooperating with the
13 Government. And after you listen -- and I have been at this
14 now for 30 some-odd years and I have the same reaction every
15 time I hear these speeches -- I wonder whether I should pin a
16 medal on the defendant who is standing before me for all the
17 wonderful things he did; cooperated with the Government; he
18 cooperated with the Government because he made a very quick
19 cost/benefit analysis and he really quickly figured it out
20 that if he cooperated, he might get some benefits in terms of
21 a sentence.

22 That is the equation that you worked out in your
23 head almost immediately, being very smart leader of a
24 multimillion dollar organization that you were.

25 I am sorry, Mr. Guerra. I am sure you have heard

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1 this more than once before.

2 MR. GUERRA: Your Honor, I am sure you have heard
3 that. [REDACTED]

4 [REDACTED] [REDACTED]

5 [REDACTED] [REDACTED]

6 [REDACTED]

7 [REDACTED]. It is a cost/benefit analysis, obviously,
8 Your Honor. We have heard that. I'm sure you have heard this
9 speech as well. [REDACTED]

10 [REDACTED]

11 That said, I think he may have misspoken.

12 Obviously, he knew from the get-go that what he was doing was
13 illegal and improper, and perhaps he's nervous today and
14 that's why he's not explaining that to Your Honor. But he
15 knew. You know, he knew.

16 THE COURT: Of course he did, Mr. Guerra.

17 And what you say to me has been troubling me and
18 probably has troubled every other Federal Judge who is called
19 upon to grant the Government's motion pursuant to 5K1. One of
20 the 5K1 factors the Court has to consider is the extent of his
21 cooperation. The only person who can tell me about that is
22 the Government. Obviously, the defendant will picture the
23 extent of one's cooperation in the most glorious, rose-colored
24 terms. The Government tells me what the extent of his
25 cooperation was, as in their determination it was. I do not

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1 think the Government is in any way minimizing the extent of
2 Mr. Caicedo's cooperation.

3 As I read the Government's letter, and all of the
4 defendants against whom he cooperated. The Government is not
5 minimizing it.

6 What is troubling is the extent to which all of that
7 impinges upon the sentence. Obviously, I know, the Government
8 knows, the agent knows, that if it were not for the Caicedos,
9 they might never have solved serious crimes. They rely
10 heavily upon informants. They rely heavily upon cooperators.

11 And the sad fact of the matter is that the higher up
12 you are in the criminal organization, the better off you are.
13 It is only the Caicedos of this world that can tell the Court
14 what it is and can tell agents, such as Mr. Kennedy and all of
15 the agents who do this very, very important and dangerous and
16 serious work, what it is that the street level drug dealer
17 could not tell you.

18 The street level drug dealer could not tell
19 Mr. Kennedy about 880,000 kilograms of cocaine and how it
20 traveled through Central America and Mexico, Guatemala,
21 Honduras. I have heard all of that.

22 But a kid from the projects who is selling 50 grams
23 of cocaine faces a mandatory minimum of 60 months. He has not
24 got any information which is helpful to the Government. What
25 does he know? Somebody gives him a couple of cellophane bags

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1 with heroin or cocaine and he gets caught, also with the
2 assistance of some cooperator, some informant, but he cannot
3 cooperate. He has nothing to cooperate with.

4 But here I have Mr. Caicedo, and I have someone
5 making this enormously articulate speech about him, how
6 wonderful he is, how wonderful the cooperation was, and I
7 think as I am listening to all of this, how do I distinguish
8 Mr. Caicedo from a Mr. Lugano, who is a kid from
9 Bedford Stuyvesant who is caught selling five grams of
10 cocaine, and the Government is going to tell me there is a
11 mandatory minimum of 60 months, and I cannot do a thing about
12 it because it is a mandatory minimum; right?

13 MR. GUERRA: Yes, sir.

14 THE COURT: Okay.

15 The other significant aspect which is troubling, but
16 I cannot ignore it, is that 3553 of Title 18 of the
17 United States Code tells the Court what it should be
18 considerate of is disparity in sentencing, which is why I have
19 looked at the sentences that all of the other defendants in
20 this case got and most of them got time served; 30 months. If
21 I am to pay attention to the disparity, the observation which
22 3553 makes, and it has merit, although I can spend a little
23 time on that as well, I have always thought that it is not
24 terribly convincing or persuasive for me to sentence
25 Mr. Caicedo because of what I sentenced Mr. Smith.

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1 I cannot look at people in precisely the same way as
2 God might have looked at people and created them. Mr. Caicedo
3 was not Lozano. He is not Otalora. He is not any one of the
4 12 other people in this case. He has a different background.
5 He has a different history. He has different motivations. He
6 is smarter, knew better. Why should I treat him in exactly
7 the same way as I treated somebody else who may not have had
8 the same education and the background as he? But that is what
9 the statute says I should do; right?

10 MS. DAYANANDA: That's correct, Your Honor.

11 THE COURT: The other interesting part of all this
12 is, in fact, this is different than the Miami case. He is not
13 being prosecuted here for drug trafficking. It is a money
14 laundering case. So you think of the drug trafficking
15 sentence as relevant conduct. But he was sentenced for that
16 already.

17 So if I take that into account now, am I
18 double-counting? Am I sentencing Mr. Caicedo again, in
19 effect, for what Judge Whittemore sentenced him for in Tampa
20 or wherever he was; right?

21 That is a legitimate consideration for me. Am I
22 sentencing him twice? Taking into consideration twice what he
23 has already been sentenced for?

24 This is money laundering. It is a financial crime;
25 right? And you have the difficult problem of the guidelines

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1 increasing a sentence based upon the amount of money involved.
2 I often think of how illogical the guidelines are by using the
3 bank robbery illustration.

4 A fellow walks into a bank and he points a gun at a
5 teller and says give me your money and the teller empties the
6 draw and gives him the money. It's \$5,000. The next fellow
7 walks in, does the same thing, points a gun at the teller and
8 he walks out with \$50,000. He is sentenced much more
9 significantly than the fellow who walked out with 5. Neither
10 one of them knew how much they were going to be walking out
11 with. The crime was not how much money they walked out with,
12 the crime was bank robbery. They both committed the same
13 crime.

14 And the same is true, to some extent, with money
15 laundering. The guidelines increase significantly by how much
16 money was laundered; right?

17 So, Mr. Caicedo, you were not being very open and
18 truthful this morning in telling me you did not know what you
19 were doing; you did not understand that you were poisoning,
20 participating in poisoning a lot of people who were using
21 cocaine that was made available to them because you were
22 sending it here. That is what you were guilty of. It is not
23 just cocaine. It is what the cocaine was doing to families; a
24 husband and father was addicted to cocaine, you made it
25 available to him. That is what you were a part of. That is

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1 what you are guilty of. He has been sentenced already or
2 served already more than any of the other defendants in this
3 case.

4 [REDACTED]
5 [REDACTED] [REDACTED]
6 [REDACTED] [REDACTED] [REDACTED]
7 [REDACTED]
8 [REDACTED] [REDACTED]
9 [REDACTED]

10 THE COURT: I am going to sentence Mr. Caicedo
11 Velandia to time served, which is in excess of a hundred
12 months. I think it is 109 months.

13 MS. DeBLASIO: 120.

14 THE COURT: I do not see any useful purpose in
15 imposing supervised release. I think the guidelines say that
16 given deportation.

17 MS. DeBLASIO: Right.

18 THE COURT: In any event. Let me add three years of
19 supervised release as a condition of which I want Mr. Caicedo
20 Velandia to know that if you are deported, do not come back to
21 this country again, unless you have the permission of the
22 United States to come back here.

23 There are about 15 open counts, I think.

24 MS. DAYANANDA: The Government dismisses them at
25 this time.

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1 THE COURT: I think there were 16 counts and he
2 pleaded guilty to Count 1.

3 MS. DAYANANDA: Count 1, Your Honor. So, Counts 2
4 to 16, the Government dismisses at this time.

5 THE COURT: Oh, the open counts motion to dismiss is
6 granted.

7 There is a special assessment of \$100. I am
8 imposing a fine of \$25,000..

9 It is interesting to speculate, I frequently do,
10 with respect to these cases how much money is available to
11 Mr. Caicedo given how much money has been taken in by his drug
12 activity. They could not -- it could not have all been spent.

13 So \$25,000 should be paid rather quickly.

14 Is there anything I am forgetting except, I suppose,
15 I am obliged to tell Mr. Velandia he has the right to appeal
16 his sentence, though goodness knows what it is he would be
17 appealing, but he should be informed that if he cannot afford
18 the cost of an appeal, he can make an application to have that
19 cost waived.

20 Ms. Dayananda, is there anything else I am
21 forgetting, I am overlooking?

22 MS. DAYANANDA: I do not think so, Your Honor.

23 THE COURT: Mr. Guerra, is there anything that I am
24 overlooking as far as your part of this case?

25 MR. GUERRA: No, Your Honor, but Ms. DeBlasio wants

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1 to address the Court.

2 MS. DeBLASIO: Your Honor, if I might.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 THE COURT: Well, I think the Probation Department
9 will take care of that.

10 MS. DeBLASIO: Okay. If I can do that there --

11 [REDACTED] [REDACTED] [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED] [REDACTED]

15 [REDACTED]

16 THE COURT: Yes, okay.

17 MS. DAYANANDA: We will take care of that.

18 THE COURT: Is there anything else?

19 MS. DAYANANDA: No, Your Honor.

20 MR. GUERRA: No, Your Honor.

21 MS. DAYANANDA: We are grateful, thank you,
22 Your Honor.

23 THE COURT: I am told there is something else.

24 THE COURTROOM DEPUTY: I believe there was an
25 application to seal the judgment and the minute entry for

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1 today. I am not certain.

2 MS. DAYANANDA: We will request to seal the
3 transcript, Your Honor.

4 THE COURTROOM DEPUTY: Just the transcript.

5 MS. DAYANANDA: Yes.

6 MS. DeBLASIO: Well, and we request that it does
7 not -- that means it won't appear on the docket sheet;
8 correct?

9 THE COURTROOM DEPUTY: It does not mean that.

10 MS. DeBLASIO: Okay. So I would also move to have
11 the fact that the sentencing took place today just not appear
12 on the docketing sheet. I know a lot of times when I look to
13 see when other people have been sentenced, I can't find it
14 because that --

15 MS. DAYANANDA: It's a separate request.

16 There are two requests, Your Honor. One is to seal
17 the transcript.

18 THE COURT: Right.

19 MS. DAYANANDA: And counsel is asking that you seal,
20 essentially, the entry in the -- in whatever ECF bounds...

21 THE COURT: You mean what the sentence was?

22 MS. DAYANANDA: Correct.

23 We are not making that request, counsel is.

24 THE COURT: I do not see any justification for that
25 at all.

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1 MS. DeBLASIO: If I might speak to that.

2 It was just because we don't want anybody to know
3 within the next medium term that he was sentenced and that he
4 has been released. And that was all for safety, because there
5 are people who are planning in other countries to take their
6 revenge. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 And so we didn't want it to appear that he has been
10 sentenced and what that sentence is. It's a safety, a
11 precautionary request.

12 THE COURT: Well, that is the basis on which the
13 application was made to seal the Court and if there is that
14 overriding interest, I will grant it.

15 But when we are notified that Mr. Caicedo has left
16 the country, we may consider just dealing with that docket
17 appropriately.

18 MS. DeBLASIO: Thank you, Your Honor.

19 THE COURT: Now, as far as the transcript is
20 concerned, I will grant the application that it be sealed. I
21 take it there should be a caveat?

22 MS. DAYANANDA: If the Government requests it.

23 THE COURT: That the Government and the defense may
24 obtain a copy of it?

25 MS. DAYANANDA: Yes, Your Honor.

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1 THE COURT: On their request. Of course paying the
2 court reporter whatever it is she is entitled to.

3 Is there anything else?

4 MR. GUERRA: No, Your Honor.

5 MS. DeBLASIO: No, Your Honor.

6 MR. GUERRA: Thank you.

7 THE DEFENDANT: Thank you, Your Honor.

8

9 (Matter concluded.)

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VB OCR CRR

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.
/s/ Victoria A. Torres Butler August 15, 2019